

Congress of the United States
House of Representatives
Washington, DC 20515-4610

May 27, 2020

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street SW
Washington, DC 20416

Dear Administrator Carranza,

I write today concerning the Paycheck Protection Program (PPP) as it relates to independent contractors and sole proprietors. These small businesses have been faced with significant challenges since the COVID-19 pandemic began, including being forced to wait an additional week to begin applying for PPP loans while the Small Business Administration finalized its guidance.

It has recently come to my attention that provisions in the SBA's Interim Final Rule effective April 20, 2020 may further hinder independent contractors and sole proprietors from receiving PPP loans in accordance with their profits. The Interim Final Rule requires these businesses to use their 2019 Form 1040 Schedule C to determine their net profit amount when calculating their maximum PPP loan amount. However, many of these small businesses are paid on a 30-to-90-day billing cycle, and therefore work completed in the 4th quarter of calendar year 2019 may not have been paid until 2020 and thus would not appear on the 2019 Schedule C Form. Furthermore, any business expenses incurred for this work in calendar year 2019 would still be reflected on the Schedule C Form, resulting in a decreased net profit amount and a lower maximum PPP loan amount.

In our combined efforts to support small businesses through this unprecedented economic crisis, both Congress and the SBA have emphasized the importance of flexibility for the PPP. In the Coronavirus Aid, Relief, and Economic Security (CARES) Act that created the PPP, for example, Congress defines the maximum loan amount to be based on the "average total monthly payments by the applicant for payroll costs incurred during the 1-year period before the date on which the loan is made" and provides additional flexibility for seasonal businesses whose payroll expenses fluctuate throughout the year. Furthermore, in the SBA's PPP Loans Frequently Asked Questions document issued May 19, 2020, the answer to question 14 allows borrowers to calculate their payroll costs "using data either from the previous 12 months or from calendar year 2019," and also provides additional flexibility for seasonal businesses.

While independent contractors are not by nature seasonal businesses, they often have revenue streams that fluctuate throughout the year and must adapt to their clients' billing cycles. I do not believe that these aspects of their work should prohibit them from receiving PPP loans that reflect the totality of their work in the previous year, and these small businesses should have the flexibility they need when making these calculations. Please provide clarification that the SBA's rulemaking allows independent contractors to use data from the previous 12 months or from calendar year 2019 so that lenders may proceed accordingly. I have attached one such potential solution to this letter for your review. I welcome any feedback you are willing to provide and look forward to working together to address this issue.

Sincerely,

J

Jennifer Wexton
Member of Congress

Proposed Solution for the Calculation of Maximum PPP Loan Amounts for Independent Contractors and Sole Proprietors

To provide independent contractors and sole proprietors with necessary flexibility in determining their maximum PPP loan amount, these small businesses may calculate their net profits by:

1. Using line 31 of the 2019 Form 1040 Schedule C to determine net profits from calendar year 2019 in accordance with the existing SBA Interim Final Rule effective April 20, 2020, or;
2. Using the 12 months beginning April 1, 2019 and ending March 31, 2020 to determine net profits. If borrowers elect to use this option, they must provide their 2019 Form 1040 Schedule C, a profit and loss statement for the period between April 1, 2019 and March 31, 2020, and bank statements from January 1, 2020 to March 31, 2020 verifying receipt of such income in their application to lenders.